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**AUG 17 2007**

**OFFICE OF PETITIONS**

In re :  
Lavelle, et al. :  
Application No. 09/618,516 : DECISION ON APPLICATION  
Filed: July 18, 2000 : FOR PATENT TERM ADJUSTMENT  
Docket No. LOCK/170/US :

This is a decision on the letter filed January 29, 2007, resubmitting the earlier "APPLICATION FOR PATENT TERM EXTENSION", originally filed October 10, 2006.

The application for patent term adjustment under § 1.705(d) is **DISMISSED**.

With the application for patent term adjustment filed October 10, 2006, Applicants requested that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seven hundred ninety-five (795) days to one thousand, one hundred seventy-three (1173) days, plus the number of days from October 3, 2006 to the issue date. However, the application for patent term adjustment was dismissed in a decision mailed on January 18, 2007. Applicants were notified that not only did the application for patent term adjustment lack the required \$200 filing fee, but also that the Office does not assess whether or not any additional PTA is accorded for failure to issue a patent within three years from filing until after the issue date is established.<sup>1</sup>

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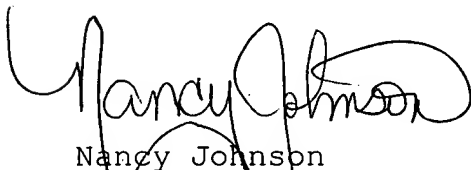
<sup>1</sup> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period of pendency before the Office except for periods excluded under 35 U.S.C. (b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the

The above application issued into Patent No. 7,181,507 on February 20, 2007, with a patent term adjustment of one thousand, three hundred nine (1309) days. The Office determined a patent term adjustment of one thousand, three hundred nine (1309) days based on an adjustment for PTO delay of seven hundred ninety-nine (799) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), ten days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. 1.703(a)(6), and five hundred four (504) days pursuant to 35 U.S.C. 154(b)(1)(B) and 37 C.F.R. 1.703(b), reduced by four (4) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

The application was filed on July 18, 2000. The number of days from the three year date (July 18, 2003) to the issuance date (February 20, 2007) is one thousand, three hundred thirteen (1313) days, which is the number of days of PTO delay already accorded (799 days under §1.703(a)(1), 10 days under 1.703(a)(6) and 504 days under 1.703(b)). Accordingly, patentees will not be awarded any additional patent term adjustment due to the Office's failure to issue the patent within three years. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 C.F.R. § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

Receipt of the \$200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

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period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A).